



Crl.R.C.No.1534 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 03.10.2024**

CORAM

**THE HON'BLE Mr.JUSTICE M.NIRMAL KUMAR**

**Crl.R.C.No.1534 of 2024**

Mercury Enterprises,  
Rep by its Proprietor,  
Mr.K.K.Maheswaran,  
No.54, Reddy Kuppam Road,  
Saidapet,  
Chennai 600 015

...Petitioner

Versus

Akbar Ali

...Respondent

**Prayer:** This Criminal Revision Case is filed under Section 438 r/w 442 of BNSS praying to call for the records of the Fast Track Court No.III, Metropolitan Magistrate, Saidapet, Chennai 15 and set aside the order passed in C.C.No.8433 of 2018 by its order dated 01.07.2024.

For Petitioner: Mr.K.C.Karl Marx



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## **ORDER**

The Criminal Revision Case has been filed to set aside the order dated 01.07.2024 passed in C.C.No.8433 of 2018 by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.

2. The petitioner, as complainant, had filed a private complaint under Section 138 of the Negotiable Instrument Act on 11.08.2017. The case was dismissed for non-prosecution on 01.07.2024, against which the present revision has been filed.

3. The contention of the petitioner is that the respondent has been evading service of summons. Thereafter, a non-bailable warrant has been issued. The petitioner has taken all necessary steps to serve the private notice on respondent, but the respondent is successfully evading the same. In the meanwhile, the case was dismissed for non-prosecution on 01.07.2024.



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4. The learned counsel for the petitioner had produced the e-court status report to show that the case had been kept pending for long time. On 04.01.2024, a fresh summons was issued to the accused, and the case was adjourned to 06.06.2024. On 06.06.2024, the case was posted on 28.06.2024. On 28.06.2024, it was again posted on 01.07.2024. On 01.07.2024, when the matter was called, there was no representation for the petitioner. Hence, the case was dismissed for non-prosecution on 01.07.2024.

5. According to the petitioner, the case has been periodically adjourned on several occasions, for a minimum of 4 to 6 months. Suddenly, from the month of June 2024, it was posted for short adjournments, and finally, the case was dismissed on 01.07.2024. The petitioner was not aware of the short adjournments. He would submit that the respondent-accused is a resident of Kalpakkam and that he would ensure the completion of service on the respondent and proceed



with the trial. He would also submit that the trial may be completed within a stipulated time fixed by this Court.

6. It is seen that, on technical grounds, the complaint was dismissed for non-appearance of the petitioner and not on merits. Substantial justice can be rendered only after a full-fledged trial and not by short circuiting with dismissal of the complaint for non-appearance. The petitioner has undertaken to diligently follow up the case and take all steps to complete the trial without any further delay.

7. In view of the above, the impugned order dated 01.07.2024 passed by the learned III Fast Track Metropolitan Magistrate Court, Saidapet, is set aside and the complaint in C.C.No.8433 of 2018 is restored to the file of learned learned III Fast Track Metropolitan Magistrate Court, Saidapet. The trial Court is directed to expedite the trial in C.C.No.8433 of 2018 and dispose the same, on merits in accordance with law within a period 3 months from the date of the



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appearance of the accused. The complainant is to ensure that service is completed on the respondent-accused without further delay.

Accordingly, the Criminal Revision Case is allowed. There shall be no order as to costs.

**03.10.2024**

Index : Yes/No  
Internet : Yes /No  
srn

**To**

The Fast Track Court No.III,  
Metropolitan Magistrate, Saidapet, Chennai 15



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**M.NIRMAL KUMAR.J**

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